## REMARKS

After entry of this amendment, claims 1-4, 6-18, 20-27, and 29-37 remain pending. In the present Office Action, claims 1-4, 8-18, 20-27, and 31-33 were rejected under 35 U.S.C. § 102(b) as being anticipated by Jacob Gorm Hansen et al., "Nomadic Operating Systems" ("Jacob"). Claims 5-7, 19, and 28 were objected to as being dependent from a rejected base claim but would be allowable if rewritten in independent form.

Applicants note that Jacob does not qualify as a reference under 35 U.S.C. § 102(b). Jacob was published on December 10, 2002, less than one year prior to July 9, 2003, which is the filing date of this application.

Allowable Claim 1-4, 6-18, 20-27, and 29-33

Applicants have incorporated the features of claims 5, 19, and 28 into independent claims 1, 14, and 23, respectively. Accordingly, claims 1, 14, and 23 are in condition for allowance. Claims 2-4, 6-13, 15-18, 20-22, 24-27, and 29-33 each depend from one of independent claims 1, 14, and 23, and thus are similarly in condition for allowance.

New Claims

Applicants respectfully submit that new claims 34-37 recite combinations of features not taught or suggested in the cited art. For example, claim 34 recites a combination of features including: "calculate a first load on the first computer system from one or more load factors, wherein the first load *corresponds to a first virtual machine*, and wherein the first virtual machine is one of one or more virtual machines to be scheduled for execution on the first computer system; transmit the one or more load factors from the first computer system to a second computer system, wherein the second computer system is configured to calculate a second load on the second computer system from the one or more load factors, wherein the second load *corresponds to the first virtual machine*, and wherein the first load *differs from* the second load".

With regard to claim 8, the Office Action alleges that Jacob teaches the load

calculations described above on page 22, with regard to MOSIX load balancing techniques. While MOSIX does generally attempt load balancing in a cluster, nothing in the cited section teaches or suggests calculating the load of a given virtual machine on computer systems, and the load of that virtual machine differing on the computer systems. Thus, nothing in the cited section teaches or suggests "calculate a first load on the first computer system from one or more load factors, wherein the first load *corresponds to a first virtual machine*, and wherein the first virtual machine is one of one or more virtual machines to be scheduled for execution on the first computer system; transmit the one or more load factors from the first computer system to a second computer system, wherein the second computer system is configured to calculate a second load on the second computer system from the one or more load factors, wherein the second load *corresponds to the first virtual machine*, and wherein the first load *differs from* the second load".

## CONCLUSION

Applicants respectfully submit that the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5760-12200/LJM.

Also enclosed herewith are the following items:

☒ Return Receipt Postcard

☐ Petition for Extension of Time

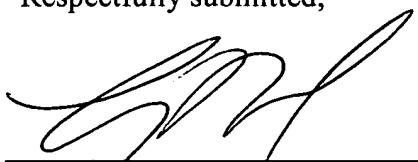
☐ Request for Approval of Drawing Changes

☐ Notice of Change of Address

☒ Please debit the above deposit account in the amount of $250 for fees ($200 for one excess independent claim, $50 for one excess claim over 20).

☒ Other: IDS

Respectfully submitted,



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Date: 8/18/06